

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

NETJUMPER SOFTWARE, L.L.C.
a Michigan limited liability corporation,

Plaintiff,

Civil Action No. 04-70366-CV
Hon. Julian Abele Cook, Jr.

v.

Magistrate Judge R. Steven Whalen

GOOGLE INC.,
a Delaware corporation

Defendant.

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STIPULATION GOVERNING EXPERT DISCOVERY

Plaintiff NetJumper Software L.L.C. (“NetJumper”) and Defendant Google Inc. (“Google”) hereby stipulate and agree that, notwithstanding the provisions of Federal Rule of Civil Procedure 26 and any pertinent case law, the scope of allowable expert discovery will be as set out below. The parties stipulate and agree that:

1. The parties will produce to one another their respective experts’ final reports, curricula vitae, written or electronic notes, and engagement arrangements, and will either identify (including by Bates number where available) or, if the document is not already in the possession of the opposing party, produce a clean copy of those documents which the experts reviewed in the course of preparing and rendering their opinions. Except as provided in paragraph 4 below, no other documents relating to expert reports will be produced, provided, however, that nothing in this agreement is intended to bar discovery of documents that are otherwise discoverable from a party or third party outside of the context of expert discovery or intended to alter the otherwise applicable rules regarding a party’s ability or inability to obtain prior testimony or statements by an expert witness.

2. The parties will not produce, nor will any party seek to discover, experts’ drafts of expert reports or communications with counsel in preparation for depositions or drafting expert reports.

3. Subject to the restrictions set forth above, the parties shall be entitled to seek discovery regarding the process undertaken by experts in preparing reports, such as who prepared each section of the report, how much time was spent drafting the report, how many drafts of the report were prepared, or who the expert spoke with during the course of drafting a report, and seek discovery regarding the content of any communications between any expert and any fact witness at any time. The parties expressly agree, however, that notwithstanding the provisions of this paragraph, they will not seek discovery into the substance of any drafts of expert reports, the substance of any comments made on drafts of expert reports, the substance of any proposed edits to expert reports, or the substance of any communications with counsel regarding the substance of the opinions expressed in the expert reports.

4. In addition to the discovery provided in paragraph 3, the parties shall be entitled to seek discovery of all test results and all underlying data and documents for any tests the expert or any other consultant or expert conducts (including, but not limited to, the use, creation and/or modification of any software or other computer program products) if (1) the expert relies on or refers to the tests in the expert's report or testimony or (2) the expert was involved in any manner in the tests and the tests relate to a subject on which the expert will testify. In either case (1) or case (2) the parties shall be entitled to seek discovery regarding the substance of any communications concerning the tests between the expert and any other expert or consultant who participated in the tests. In either case (1) or case (2), if such tests were conducted by another expert or consultant, the parties will make that other expert or consultant available for deposition and all data and documents concerning all tests conducted by that other expert or consultant in connection with this litigation and relating to the subject matter of the testifying expert's testimony or report shall be discoverable, whether or not the testifying expert relies on all of the tests.

Dated: August 14, 2006

SOMMERS SCHWARTZ, P.C.

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CERTIFICATE OF SERVICE

I hereby certify that on August 14, 2006, I electronically filed STIPULATION GOVERNING EXPERT DISCOVERY, with the Clerk of the Court using the ECF system, which will send notice of such filing upon the following attorneys: ANDREW KOCHANOWSKI, NABEEL N. HAMAMEH, and MICHAEL H. BANIAK.

By: /s/ Jason W. Wolff

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